

**FLATHEAD COUNTY BOARD OF ADJUSTMENT
MINUTES OF THE MEETING
DECEMBER 03, 2019**

**CALL TO ORDER
6:00 PM**

A meeting of the Flathead County Board of Adjustment was called to order at approximately 6:00 p.m. at the South Campus Building, 40 11th Street West, Suite 200, Kalispell, Montana. Board members present were Gina Klempel, Tobias Liechti, and Roger Noble. Cal Dyck and Ole Netteberg had an excused absence. Mark Mussman represented the Flathead County Planning & Zoning Office.

There were 9 members of the public in attendance.

**APPROVAL OF
MINUTES
6:00 PM**

Klempel motioned, seconded by Liechti, to approve the November 05, 2019 minutes as written.

The motion passed unanimously by quorum.

**PUBLIC COMMENT
(Public matters that are
within the jurisdiction of the
Board 2-3-103 M.C.A)
6:01 PM**

None

**DISCLOSURE OF
CONFLICT OF
INTERESTS
6:01 PM**

None

**MATTHEW YOUNG
CONDITIONAL USE
PERMIT
(FCU-19-08)
6:01 PM**

A request from Matthew Young for a conditional use permit for a 'Home Occupation' for a metal working shop on a lot located at 231 Antelope Trail, south of Whitefish, MT within the Happy Valley Zoning District. The property is zoned R-2 (One-Family Limited Residential) and contains approximately 0.5 acres.

**STAFF REPORT
6:02 PM**

Mark Mussman reviewed the Staff Report FCU-19-08 for the board.

BOARD QUESTIONS
6:06 PM

None

**APPLICANT
PRESENTATION**
6:06 PM

Michael Young, 231 Antelope Trail, was the applicant and explained that he started the business about a year and a half ago. It was intended from the start to go into breweries and provide sanitary welding services, which was a code specific process. After working with some of the shops in town, they were interested in have a service as such. It had started as a mobile repair, where he would go into the breweries for repairs and there was no shop needed. Because they had been successful, it had expanded, they had gotten into light fabrication. He had been doing the work inside of his house but felt it was not appropriate to do it inside of a place of residence so he built a garage. He said there were no employees. There was one guy who occasionally helped out that was being considered for partnership (to be considered down the road). He worked at Applied Materials and therefore this was not a full-time gig. Right now he equated it to nothing more than a hobby. He said any increased traffic would be from UPS because he desired to order his parts from out of state. He did not intend on doing a showroom. He did not want people in his yard any more than the neighbors wanted to see them; he had a young child and he did not need people in and out of his property. He said he would limit it to people who would be dropping things off and things of such nature. He said it was relatively low amperage welding with rarely any sparks produced. They had done some careful consideration with the design of the building. Everything was up to code and permitted. He said it was a hobby shop.

BOARD QUESTIONS
6:09 PM

Noble asked how it varied from conventional welding. Young went into the great detail of explaining sanitary welding which was good for food services and was extremely clean. He did not want to get into the general repair; only a clean shop. He did want to expand it to get military parts, small in nature, which is what would be coming through UPS.

Noble clarified that it was an arch welder rather than gas.

PUBLIC COMMENT
6:12 PM

Dave Baker, 226 Antelope Trl., spoke in opposition to the application. He requested that the zone not be changed. He was concerned about the increase in traffic. He was also concerned about noise while working with the material. He was concerned about the decrease in property values and the changing of their neighborhood community. He mentioned he had health issues and did not welcome the potential of extra air pollution.

Terry Snipes, 223 Antelope Trl., said that he was not opposed to somebody working. He was concerned over permanent zoning change. He was unclear with conditional use permit protocol and wondered if it could carry on with the property. He wanted some clarification and expressed concern about the potential change that could entail. If those issues could be addressed, he would not be opposed.

APPLICANT REBUTTAL
6:18 PM

Young addressed some of the concerns including the parking on the two lanes road, which he said was currently being abused by other neighbors, and was adamantly opposed to that. He was not asking for a zone change and did not plan on expanding the business at this location. If it did expand, he would look at moving it to commercial property. He assured the neighbors that he was not trying to turn it into a storefront. Regarding noise, he said that he might crack the doors open during the summer but it would not be at unreasonable hours. He did not want to be a bad neighbor. He also referenced that the highway was right there and made more noise than he would.

BOARD QUESTIONS
6:21 PM

Klempel looked at the requested hours of operation and wondered why he was asking from 9-9 pm. He said that he did not specifically ask for that, he had stated that he would not create noise past 9 pm and felt that it might have been misinterpreted. He did not see himself leaving his full-time job any time soon, therefore, on weekdays he did not see himself being out there past 9:00 pm because he needed to get to bed to go to work the next day. He said on weekends it might be a little later but he would not be disruptive on purpose.

Klempel clarified that 9 am was directed towards the weekend. Noble clarified that he would basically just work on stuff in the evenings and on Saturday. Young confirmed that was his intent at this point in time. Noble said that if it changed to the extent that he would have to work more hours, he would be back here to modify the permit.

Noble asked if Young would be open to putting a ceiling on the permit; giving the neighbors reassurance that there would not be noise or lighting late at night. Young agreed that would be fine.

[Comments were made from the public, however, they did not identify themselves]

Young said that he would not create noise on Sundays. Noble wondered how he was going to limit it to 15 hours a week. Young said he did not understand how [the board] could tell the board not to make noise inside a building. He

understood if the doors were open and he was truly disrupting the neighborhood but not if the doors were closed. He said that there were people who had 1968 Chevilles that made more noise than what they were going to hear inside the walls of the shop.

STAFF REBUTTAL
6:24 PM

Mussman explained the difference between conditional use permit and a zone change. With a conditional use, the applicant must adhere to what was being asked for in the application and the conditions that were placed on the permit. If he were to advance to a more intrusive type of welding, he would have to come back and go through the process. He read some of the conditions and stated that anything beyond that scope, he would need to come back in order to modify to be in compliance. He said, if approved, the use and its description will be what takes place on the property.

Klempel asked if the permit carried on with the property. Mussman said if the property was sold, typically a conditional use permit would stay with the property, but it would only work if the new owner-operated under the same home occupation description and conditions. Chances of that happening were dim. He suggested they could condition it for the particular applicant only and when sold the conditional use permit expires.

Klempel asked about condition #3, regarding the notarized certification, and if it was something new. Mussman explained that it was not and because a home occupation was being performed in an accessory dwelling, then it required a notarized statement and was part of the general performance standards.

MAIN MOTION ON TO
ADOPT F.O.F.
(FCU-19-08)
6:32 PM

Leitchti made a motion, seconded by Klempel, to accept Staff Report FCU-19-08 as Findings-of-Fact.

ROLL CALL TO ADOPT
F.O.F.
(FCU-19-08)
6:33 PM

Motion passed unanimously on a roll call vote.

BOARD DISCUSSION
6:33 PM

Noble stressed to those in attendance that this was a conditional use permit and had nothing to do with zoning.

Klempel said she was still looking at the hours of operation. Klempel wondered what his work hours were at his other job. She felt that 9:00 was too late. Noble said he had Sunday to work too. They discussed conditioning and stated

that she felt closing hours should be 8:00 pm. Young said that he still may be out there but would not make noise. She said that would be fine. Noble pointed out to Mussman that they were going amend condition #8 to state:

Hours of operation shall be limited to 9:00 AM to 8:00 PM.

Noble asked questions about what type of welding he would be doing. Young explained and said that he did not want to get in to the repair side [of welding]. Noble asked if he was going to be strictly welding and no fabrication. Young said he called it light fabrication because it was bracketed. He said if a business in downtown Whitefish wanted him to make a coat rack, he wasn't going to say no to the job, but he was not doing residential and structural steel. Noble wanted to amend condition #9 to state:

No outdoor welding, storage, or storage of any welding equipment or supplies shall be permitted [FCZR Section 5.06.020(1)(A)].

Noble also requested that condition #12 be added to state:

Upon the sale or change of ownership of the property, the Conditional Use Permit shall be retired.

**MOTION TO ACCEPT
THE REVISED
CONDITIONS
(FCU-19-08)
6:38 PM**

Liechti made a motion, seconded by Klempel, to accept the revised conditions of FCU-19-08.

**ROLL CALL TO
ACCEPT THE REVISED
CONDITIONS
(FCU-19-08)
6:38 PM**

Motion passed unanimously on a roll call vote

**MOTION TO APPROVE
(FCU-19-08)
6:39 PM**

Leichti made a motion, seconded by Klempel, to approve the FCU-19-08 application with conditions.

**ROLL CALL TO
APPROVE
(FCU-19-08)
6:39 PM**

Motion passed unanimously on a roll call vote

NEW BUSINESS
6:40 PM

None

OLD BUSINESS
6:40 PM

It was discussed that board appointments were going to be coming up on December 11, 2019, and they would be getting notification letters in the mail shortly after.

ADJOURNMENT
6:41 PM

The meeting was adjourned at approximately 6:41 pm.



Roger Noble, Vice-Chairman



Angela Phillips, Recording Secretary

APPROVED AS SUBMITTED/CORRECTED 5/5 2020